



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Governor

ELIZABETH CONNOLLY
Acting Commissioner

KIM GUADAGNO
Lt. Governor

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES

VALERIE HARR
Director

T.B.,
PETITIONER,
v.
DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES,
RESPONDENT.
ADMINISTRATIVE ACTION
FINAL AGENCY DECISION
OAL DKT. NO. HMA 01858-15

As Director of the Division of Medical Assistance and Health Services, I have reviewed the record in this matter, consisting of the Initial Decision, the documents in evidence, the contents of the OAL case file, and Respondent's Exceptions to the Initial Decision. Procedurally, the time period for the Agency Head to render a Final Agency Decision August 20, 2015, in accordance with N.J.S.A. 52:14B-10 which requires an Agency Head to adopt, reject, or modify the Initial Decision within 45 days of the agency's receipt. The Initial Decision was received on July 6, 2015.

For the reasons which follow, I hereby REVERSE the decision of the Administrative Law Judge (ALJ) approving Petitioner's request for a power wheelchair. The ALJ found that a power wheelchair is medically necessary because Petitioner's medical conditions significantly impact his mobility and positioning and that the

wheelchair will help reduce the risk of skin breakdown. What the ALJ fails to take into account is that Petitioner resides in a nursing home where the Medicaid program is paying for 24-hour care. Providing necessary equipment (e.g., a wheelchair) as well as providing assistance in that wheelchair, including proper positioning and qualified attendants available to transport Petitioner where he wants to go, are within the nursing home's responsibility, and are already included in the rate paid to the nursing home under its contract as a Medicaid provider. See N.J.A.C. 10:59-1.4(a)4, N.J.A.C. 8:39-27.1(a) and N.J.A.C. 8:85-2.15(c).

Moreover, I agree with the Division's medical consultant that Petitioner has failed to demonstrate that the requested wheelchair is medically necessary to treat, evaluate or diagnose Petitioner's medical condition in accordance with N.J.A.C. 10:49-5.5(a)1. Additionally, the Medicaid program does not cover durable medical equipment when "in the opinion of the Division, the item is not considered cost-effective . . . for the treatment of a beneficiary's medical condition". N.J.A.C. 10:59-1.4(a)1. There is no doubt that Petitioner has numerous medical conditions. However, a power wheel chair is not considered a treatment method nor is it used to make a diagnosis of a medical condition. Additionally, the purchase of a power wheelchair in this case would be a duplication of services and is not cost effective because skilled nursing facilities are obligated to provide appropriate equipment and services as part of the nursing care provided under the Medicaid contract. N.J.A.C. 8:39-27.1(a) and N.J.A.C. 8:85-2.5 and 8:85-2.15(c).

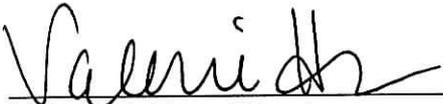
T.B. testified that he feels confined to his bed and that he requires physical therapy but has not been receiving it. He testified that he enjoyed using the power

wheelchair for the two-month trial period provided by the nursing home as he was able to move about the facility independently and that he felt more “energized and alive”. Initial Decision at page 4. While there is no doubt that a power wheelchair would enhance T.B.’s quality of life and give him more independence, as stated above, the fact remains that the nursing home is required to provide all essential equipment and supplies necessary to ensure that their residents’ needs are taken care of (such as attending meals, participating in activities at the facility and going to physical therapy) as part of the per diem rate paid for by the Medicaid program. See N.J.A.C. 10:59-1.4(a)4, N.J.A.C. 8:39-27.1(a), and N.J.A.C. 8:85-2.15(c). Should Petitioner return to the community, he may seek approval for a power wheelchair at which point DMAHS would take into consideration that the client is not receiving 24-hour care and services provided by a nursing home.

THEREFORE, it is on this 3rd day of August 2015,

ORDERED:

That the Initial Decision authoring the provision of a power wheelchair is hereby REVERSED.



Valerie J. Harr, Director
Division of Medical Assistance
and Health Services